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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,134	11/01/2000	Todd Siegel	00688081	4080

7590 08/20/2002

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EXAMINER

PARADISO, JOHN ROGER

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 08/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/704,134

Applicant(s)

SIEGEL ET AL

Examiner

John R. Paradiso

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over KNUDSEN (US 4490963) in view of BOUTHINETTE (US 6023916).

KNUDSEN discloses an automated pharmaceutical packaging machine in which pharmaceutical products are dispensed from an array of sources (16) into each cavity of a plurality of product package cavities (14) and transferring them into a product package member and then to a package sealer downstream. (See KNUDSEN columns 3 and 4 and figures 1 and 12.)

KNUDSEN does not specifically disclose the pharmaceutical products being dispensed into product package templates.

BOUTHINETTE discloses a packaging machine with product package template cavities corresponding to cavities of a product package member. (See BOUTHINETTE columns 5 and 6 and figures 2, 7, and 11.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of KNUDSEN by dispensing the pharmaceutical products into product package templates, as taught by BOUTHINETTE, in order to ensure facilitate product placement into popular compartmented containers.

Regarding claims 2 and 7, Applicant is given Official Notice that the use of pneumatic cylinders for movement of machine assemblies is notoriously well known in the art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to use pneumatic cylinders to move the parts of the combination of KNUDSEN and BOUTHINETTE in order to move the assemblies in an easily controllable manner.

Regarding claims 3 and 8, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the combination of KNUDSEN and BOUTHINETTE with any number of arrays and funnels, as determined to be most efficient, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over TAKEMASA ET AL (US 5765606) in view of BOUTHINETTE (US 6023916).

TAKEMASA ET AL discloses an automated pharmaceutical packaging machine in which pharmaceutical products are dispensed from an array of sources (7) into each cavity of a plurality of product package cavities (33) and transferring them into a product package member. (See TAKEMASA ET AL columns 4 and 5 and figure 6.)

TAKEMASA ET AL does not specifically disclose the pharmaceutical products being dispensed into product package templates.

BOUTHINETTE discloses a packaging machine with product package template cavities corresponding to cavities of a product package member. (See BOUTHINETTE columns 5 and 6 and figures 2, 7, and 11.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of TAKEMASA ET AL by dispensing the pharmaceutical products into product package templates, as taught by BOUTHINETTE, in order to ensure facilitate product placement into popular compartmented containers.

Regarding claims 2 and 7, Applicant is given Official Notice that the use of pneumatic cylinders for movement of machine assemblies is notoriously well known in the art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to use pneumatic cylinders to move the parts of the combination of TAKEMASA ET AL and BOUTHINETTE in order to move the assemblies in an easily controllable manner.

Regarding claims 3 and 8, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the combination of TAKEMASA ET AL and

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BOUTHINETTE with any number of arrays and funnels, as determined to be most efficient, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Reference Citations

4. The following prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- JEDEL discloses a packaging machine with an array of product dispensers.
- NEFF ET AL discloses a packaging machine with an array of product dispensers.
- LASHER ET AL discloses a packaging machine with an array of product dispensers.
- PORTARO ET AL discloses a packaging machine with an array of product dispensers.
- THURSTON ET AL discloses a packaging machine with a plurality of product dispensers.
- BERGERIOUX ET AL discloses a packaging machine with a plurality of hoppers.
- PREISS discloses a packaging machine involving packaging in blister packs.
- CHUDY ET AL discloses a packaging machine with an array of product dispensers.

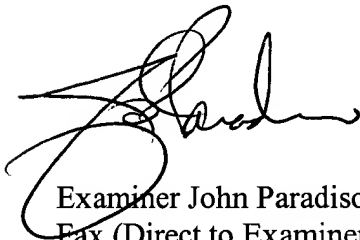
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Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 1:00 p.m. – 9:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center receptionist.



Examiner John Paradiso (703) 308-2825
Fax (Direct to Examiner): (703) 746-3253
Supervisor Rinaldi Rada (703) 308-2187
Receptionist (703) 308-1148

August 16, 2002